



Billing Code: 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R09-OAR-2013-0384; FRL-9901-77-Region 9]**

**Approval and Promulgation of Implementation Plans; California;  
South Coast; Contingency Measures for 1997 PM<sub>2.5</sub> Standards**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State implementation plan (SIP) revision submitted by California to address Clean Air Act (CAA) contingency measure requirements for the 1997 annual and 24-hour national ambient air quality standard (NAAQS) for fine particulate matter (PM<sub>2.5</sub>) in the Los Angeles-South Coast Air Basin (South Coast). Approval of this SIP revision terminates the sanctions clocks and a federal implementation plan (FIP) clock that were triggered by EPA's partial disapproval of a related SIP submission on November 5, 2011.

**DATES:** This rule is effective on **[INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN FEDERAL REGISTER]**.

**ADDRESSES:** You may inspect the supporting information for this action, identified by docket number EPA-R09-OAR-2013-0384, by one of the following methods:

1. Federal eRulemaking portal, <http://www.regulations.gov>, please follow the online instructions; or,
2. Visit our regional office at, U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Docket:* The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California.

While documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., voluminous records, large maps, copyrighted material), and some may not be publicly available in either location (e.g., Confidential Business Information). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Doris Lo, EPA Region IX, (415) 972-3959, [lo.doris@epa.gov](mailto:lo.doris@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

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## **I. Summary of Proposed Action**

On June 24, 2013 (78 FR 37741), EPA proposed to approve the "South Coast Air Quality Management District Proposed Contingency Measures for the 2007 PM<sub>2.5</sub> SIP" (dated October 2011), which the California Air Resources Board (CARB) submitted on November 14, 2011 and supplemented on April 24, 2013 (collectively the "Contingency Measures SIP"). EPA proposed to approve the Contingency Measures SIP as satisfying the attainment contingency measure requirement in CAA section 172(c)(9) for the 1997 PM<sub>2.5</sub> NAAQS and to conclude that the reasonable further progress (RFP) contingency measure requirement in CAA section 172(c)(9) for the 2012 milestone year is moot because the South Coast area has achieved the emission reduction benchmarks for the 2012 RFP year. Our June 24, 2013 proposed rule provides the rationale for this action.

## **II. Public Comment and EPA Response**

EPA provided a 30-day public comment period on our proposed action. The comment period ended on July 24, 2013. We received one public comment and respond to that comment below.

**Comment:** A private citizen asserted that there has been no attempt to address methane outgassing and the many oil fields in the South Coast area. The commenter also stated that train maintenance, promotion of bicycles and rail, automobile and truck lane reductions, digital signage, outdoor wood burning and

landfills are not being adequately addressed, that health risk assessments should be required, that there are cancer clusters in the area, and that "the political handling of [the] air quality problem does not change the quality of life and health of" South Coast area residents.

**Response:** The commenter's submission contained only general observations and conclusions that are outside the scope of EPA's rulemaking action. While expressing a broad range of environmental concerns, the commenter failed to identify any specific issue relevant to EPA's proposed action on the Contingency Measures SIP, and did not address the basis for EPA's approval of the South Coast's contingency measures. To the extent the commenter intended to encourage additional review and evaluation of air pollution sources in the South Coast area, and additional potential transportation and control measures that may reduce air pollution, EPA encourages the commenter to participate in the regulatory processes carried out by the South Coast Air Quality Management District (SCAQMD), CARB, and other State/local agencies involved in the development of air quality management plans for the South Coast area. EPA finds no basis in the comment to change its views on the approvability of the specific contingency measures at issue in this rulemaking.

### **III. EPA's Final Action**

We are finalizing our proposal to conclude that the Contingency Measures SIP submitted by CARB on November 14, 2011, as supplemented on April 24, 2013, satisfies the attainment contingency measure requirement in CAA section 172(c)(9) for the 1997 PM<sub>2.5</sub> NAAQS in the South Coast nonattainment area. We therefore fully approve this submission into the California SIP. This final action is based in part on EPA's final rule approving SCAQMD Rule 444 and Rule 445, which was signed by Jared Blumenfeld, Regional Administrator, Region IX, on August 22, 2013. See "Revisions to Implementation Plan, South Coast Air Quality Management District" Final Rule, signed August 22, 2013 (pre-publication copy).<sup>1</sup>

We are also finalizing our proposal to conclude that the RFP contingency measure requirement in CAA section 172(c)(9) for the 2012 milestone year is moot as applied to the South Coast because the area achieved its SIP-approved emission reduction benchmarks for the 2012 RFP year.

Today's final approval corrects deficiencies that were the basis for EPA's partial disapproval of the South Coast PM<sub>2.5</sub> SIP on November 9, 2011 (76 FR 69928) and therefore terminates the CAA section 179(b) sanctions clocks triggered by that action and

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<sup>1</sup> EPA's proposal to approve the Contingency Measures SIP relied in part on a simultaneous proposal to approve Rule 444 and Rule 445, which we stated would provide SIP-creditable PM<sub>2.5</sub> emission reductions upon final EPA approval of these rules into the SIP. See 78 FR at 37745-37746 and 37751, Table 4.

the obligation on EPA to promulgate a FIP within two years of that action.

#### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not apply in Indian country located in

the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action

may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**AUTHORITY:** 42 U.S.C. 7401 *et seq.*

Dated: September 25, 2013

Jared Blumenfeld,  
Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**PART 52 APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS.**

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

**Subpart F – California**

2. Section 52.220 is amended by adding paragraph (c)(432) to read as follows:

§ 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(432) The following plan was submitted on November 14, 2011, by the Governor's Designee.

(i) [Reserved]

(ii) Additional materials.

(A) South Coast Air Quality Management District.

(1) South Coast Air Quality Management District Proposed Contingency Measures for the 2007 PM<sub>2.5</sub> SIP (dated October 2011) ("Contingency Measures SIP"), adopted October 7, 2011.

(2) SCAQMD Resolution No. 11-24, dated October 7, 2011, adopting the Contingency Measures SIP.

(3) Letter dated April 24, 2013 from Elaine Chang, Deputy Executive Officer, SCAQMD, to Deborah Jordan, Director, Air

Division, EPA Region 9, Re: "Update of the 2012 RFP Emissions and 2015 Reductions from Contingency Measures for the 2007 Annual PM2.5 Air Quality Management Plan for the South Coast Air Basin," including attachments.

(B) State of California Air Resources Board.

(1) CARB Executive Order S-11-023, dated November 14, 2011, adopting the Contingency Measures SIP.

[FR Doc. 2013-25182 Filed 10/28/2013 at 8:45 am; Publication Date: 10/29/2013]